

AO 440 (Rev. 03/08) Civil Summons

UNITED STATES DISTRICT COURT

for the

Northern District of California

CARLOS H. PEREZ

Plaintiff

v.

GMAC MORTGAGE USA CORPORATION, et al.

Defendant

Civil Action No.

C08

01972

HRL

Summons in a Civil Action

To: EXECUTIVE TRUSTEE SERVICES, LLC

(Defendant's name)

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

Fred W. Schwinn  
Consumer Law Center, Inc.  
12 South First Street, Suite 1014  
San Jose, California 95113-2418

If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

APR 15 2008

Date: \_\_\_\_\_

Richard W. Wieking

Name of clerk of court

Tiffany Salinas-Harwell

(Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States allowed 60 days by Rule 12(a)(3).)

## PROOF OF SERVICE OF SUMMONS

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of:

a. ☒ summons

b. ☒ complaint

c. ☒ Alternative Dispute Resolution (ADR) package

d. ☐ Civil Case Cover Sheet (served in complex cases only)

e. ☐ cross-complaint

f. ☒ other (specify documents) : Order Setting Initial Case Management Conference; Standing Order Regarding Case Management in Civil Cases; Consent to Proceed Before a US Magistrate Judge; ECF Registration Information Handout

3. a. Party served (specify name of party as shown on documents served):  
EXECUTIVE TRUSTEE SERVICES, LLC

b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made)(specify name and relationship to the party named in item 3a):

4. Address where the party was served:  
2711 Centerville Road, # 400  
Wilmington, DE 19808-1645

5. I served the party (check proper box)

a. ☐ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date) : (2) at (time) :

b. ☐ **by substituted service.** On (date) : at (time) : I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):

(1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

(2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.

(3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.

(4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (date) : from (city): or ☐ a declaration of mailing is attached.

(5) ☐ I attach a **declaration of diligence** stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: CARLOS H. PEREZ	CASE NUMBER: C08-01972-HRL
DEFENDANT/RESPONDENT: GMAC MORTGAGE USA CORPORATION	

5. c. ☒ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): April 23, 2008 (2) from (city): San Jose, California
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4) ☒ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ **by other means** (specify means of service and authorizing code section):

☒ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☐ On behalf of (specify):

under the following Code of Civil Procedure section:

- |   |   |
|---|---|
| <input type="checkbox"/> 416.10 (corporation)                     | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation)             | <input type="checkbox"/> 416.60 (minor)                               |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee)                 |
| <input type="checkbox"/> 416.40 (association or partnership)      | <input type="checkbox"/> 416.90 (authorized person)                   |
| <input type="checkbox"/> 416.50 (public entity)                   | <input type="checkbox"/> 415.46 (occupant)                            |
|   | <input type="checkbox"/> other:                                       |

7. **Person who served papers**

- a. Name: Fred W. Schwinn
- b. Address: 12 South First Street, Suite 1014, San Jose, CA 95113-2418
- c. Telephone number: (408) 294-6100
- d. The fee for service was: \$
- e. I am:
- (1) ☐ not a registered California process server.
- (2) ☒ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
- (i) ☐ owner ☐ employee ☐ independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: May 7, 2008

Fred W. Schwinn (SBN 225575)

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



(SIGNATURE)

SHORT TITLE:  
PEREZ v. GMAC MORTGAGE USA CORPORATION

CASE NUMBER:  
C08-01972-HRL

U.S. Postal Service™  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

WILMINGTON, DE 19808

7007 0710 0001 0498 9418

Postage	\$	\$10.30
Certified Fee		\$2.65
Return Receipt Fee (Endorsement Required)		\$2.15
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$15.10

Postmark Here

04/23/2008

Executive Trustee Services LLC  
c/o Corporation Service Company  
2711 Centerville Rd. Ste 400  
Wilmington, DE 19808-1645

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>Print your name and address on the reverse so that we can return the card to you.</p> <p>Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p>Executive Trustee Services, LLC c/o Corporation Service Company 2711 Centerville Rd. Ste 400 Wilmington, DE 19808-1645</p> <p>2. Article Number (Transfer from service label) 7007 0710 0001 0498 9418</p>	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)</p> <p>C. Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

(Required for verified pleading) The items on this page stated on information and belief are (specify item numbers, not line numbers):

This page may be used with any Judicial Council form or any other paper filed with the court.

Page 3